

APPEAL NO. 022296
FILED OCTOBER 14, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on August 13, 2002. The hearing officer determined that the respondent's (appellant) average weekly wage (AWW) is \$598.23, and that the benefits he received from the Employee's Retirement System of Texas are not considered post-injury earnings (PIE) under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 129.2 (Rule 129.2). The appellant (self-insured) appealed, asserting that retirement benefits are a pecuniary fringe benefit and should be considered PIE. The claimant responded, urging affirmance. The hearing officer's determination as to the claimant's AWW is unappealed and has become final. Section 410.169.

DECISION

Affirmed.

The self-insured argues on appeal, as it did at the CCH, that the claimant's retirement pay should constitute PIE pursuant to Rule 129.2(c)(1) because it is a pecuniary fringe benefit. We have previously noted that retirement pay is not tied to the provision of personal services, but is related to past services. We see no merit in the assertion that retired pay is a "fringe benefit" PIE, or that the hearing officer erred as a matter of law. See Texas Workers' Compensation Commission Appeal No. 012361, decided November 19, 2001. Nothing in our review of the record indicates that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**EXECUTIVE DIRECTOR
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Susan M. Kelley
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge